

Northwest Atlantic Fisheries Organization



**Report of the  
STACTIC Observer Program Review Working Group**

8-10 December 2015  
Reykjavik, Iceland

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## **Report of the STACTIC Observer Program Review Working Group**

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The NAFO STACTIC Observer Program Review Working Group met in Reykjavik, Iceland December 8-10, 2015. The group reviewed each provision in Article 30 and identified an action plan for the coming year to revise or replace existing provisions and identify need for new provisions. The annex to this report describes in detail which provisions of Article 30 were identified for modification and areas where new provisions are proposed; however, the summary below identifies key areas proposed for change as well as potential new provisions being considered.

### **1. Article 30 PART A**

A need was identified to develop language to describe the objective of the observer program, and language will be developed that identifies the objective as being to collect data for the use of all NAFO bodies.

A definition of observer will be developed to describe a “certified” observer.

A two part provision will be developed to differentiate between duties for observers onboard their own Contracting Party vessels and observers assigned to other CP vessels. The purpose of this provision is to ensure that Contracting Parties are not limited in the assignment of duties to their domestic observers, nor are they constrained in what duties they can assign to other Contracting Party observers onboard their own vessels.

New language will be proposed to describe the process for observers to report an infringement, in recognition of the fact that the existing process is not functioning as was intended.

Where vessels are obliged to carry an observer, a new provision will require that they refrain from any fishing activity until the observer is onboard the vessel.

A new provision will propose a penalty for vessels that are required to carry an observer but do not.

Another provision will be drafted requiring that all observer reports are posted to the inspectors website, with due consideration to confidentiality requirements.

Provisions requiring the master to cooperate with and assist the observer will be strengthened and will include an annexed Code of Conduct for observers and masters that will allow observers an opportunity to report harassment.

### **2. Article 30 PART B**

It is anticipated that Part B of Article 30 will disappear when a newly revised Article 30 is adopted. Part B of Article 30 relates to a pilot project to allow derogation from the 100% observer coverage requirement where the master and observer were submitting daily catch reports. However, since the time that these provisions were implemented, NAFO has implemented a new requirement in Article 28 requiring all vessel masters to report daily. Additionally, as the “pilot project” will likely cease with the implementation of a revised Article 30, it is necessary to review each provision to ensure that any requirements that should be kept are incorporated into the revised provisions. A number of redundancies were identified during the meeting but a thorough review of each measure is required before any measures are proposed for deletion.

Language will be put forward to incorporate a review of observer program performance into annual STACTIC compliance review

### **3. Other Provisions**

#### Establishment of Criteria for Observer Coverage/ Consultation with Scientific Council

Discussion on the establishment of observer coverage levels did not result in an agreed approach; however, there was consensus on the importance of having criteria to guide the establishment of coverage levels. STACTIC Working Paper 04/29 (discussion paper on the establishment of observer coverage levels) will be revised and distributed for consideration by the WG.

The 2004 paper proposes an approach to establish a base level of coverage based on conservation risk and then adjust the level based on the compliance level; however, with a stated objective for the program to produce data for use by all NAFO bodies, it was decided that Scientific Council should have input into the criteria for establishment of coverage levels, based upon their data requirements.

### **4. Training/Equipment/Certification**

The WG discussed the provision of equipment and the requirements for certification of observers and determined that standards would help to ensure consistency in the program. To that end, each member will provide a list of their domestic processes and a harmonized standard will be developed for training, equipment and certification. Additionally, guidelines will be developed for the development of minimum qualifications for observers.

One area of consensus for the WG with respect to equipment was the provision of an independent means of communication for observers to transmit reports from their assigned vessels.

### **5. Area without consensus**

Article 30 currently requires that all infringements detected onboard unobserved vessels be considered as serious infringements. In the absence of consensus on retaining this provision, members of the Working Group were asked to reflect further on this provision for later discussion.

The Working Group will meet in March, 2016 via conference call to assess progress on the development of the action plan and prepare for a report to the Intersessional meeting of STACTIC in May.

## **Annex 1. List of Participants**

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| Judy Dwyer<br>Lloyd Slaney   | Canada  |
| Meinhard Gaardlykke<br>Petur Jacobsen  | Denmark (in respect of the Faroe Islands and Greenland) |
| Jon Lansley<br>Aronne Spezzani   | European Union  |
| Brynhildur Benediksdottir<br>Saevar Gudmudsson<br>Bjorgolfur Ignason<br>Hrannar MaiAggarsson | Iceland   |
| Gene Martin  | United States of America                                |

**Annex 2. Agenda****Tuesday, 8 December**

|             |                      |
|-------------|----------------------|
| 08:30-12:00 | Objective of Program |
| 1300-1630   | Duties of Observers  |

**Wednesday, 9 December**

|              |                                     |
|--------------|-------------------------------------|
| 08:30 -12:00 | Training, Designation and Equipment |
| 13:00-16:30  | Roles and Responsibilities          |

**Thursday, 10 December**

|             |   |
|-------------|---|
| 08:30-12:00 | Criteria for Coverage   |
| 13:00-16:30 | Walkthrough of Article 30- SWOT Analysis –Review of Workplan for 2016 |

### Annex 3. Record of Discussion

| Art.<br>30 |   | ACTION REQUIRED   | ACTION TO BE TAKEN   | PROPOSED LANGUAGE   |
|------------|---|---|--|---|
| 1.         | <p><b>A. GENERAL PROVISIONS</b></p> <p><b><i>Duty to Carry Observer</i></b></p> <p>1. Subject to Article 30.B.1 every fishing vessel shall at all times in the Regulatory Area carry at least one independent and impartial observer.</p>   | <p>Insert Chapeau with language to describe the objective of the program, i.e. collect data for use by NAFO.</p> <p>Revise upon completion or establishment of criteria for coverage levels.</p> <p>(Consider inclusion of requirement for CP to update inspector website with OBSERVER deployment information)</p> | <p>Canada to draft language for this article.</p>                                | <p>Subject to Article 30.B.1 every fishing vessel shall at all times in the Regulatory Area carry at least one certified independent and impartial observer.</p>  |
|            | <b><i>Duties of the Flag State Contracting Party</i></b>  |   |  |   |
| 2.         | <p>2. Every flag State Contracting Party shall provide to the Executive Secretary a list of the observers it intends to deploy to the vessels entitled to fly its flag operating in the Regulatory Area and</p> <p>shall ensure that the observers on board such vessels carry out only the following duties:</p> | <p>Language requires revision.</p>  | <p>US to draft a definition of observer in Art 1 to mean certified observer.</p> | <p>Every flag State Contracting Party shall provide to the Executive Secretary a list of its certified observers it intends to deploy to the vessels entitled to fly its flag operating in the Regulatory Area and shall ensure that its observers on board such vessels carry out only the following duties:</p> |
| (a)        | <p>monitor compliance with the CEM, in particularly verify logbook entries including the composition of catch by species, quantities, live and processed weight; and hail and VMS reports;</p>  | <p>Create a two part provision (a) &amp; (b).</p> <p>(a) Observers on their CP vessels and the language would read “at a minimum”</p>   | <p>Canada to prepare draft.</p>  |   |

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|     |   | <p>(b) Observers on other CP vessels and the language could read “shall only”...., however additional duties may be assigned with the agreement of both CPs.</p> <p>These revisions consolidate (a), (b) and (c) to reflect the required information in Annex IIM.</p> <p>Cross reference Annex to ensure nothing has been missed or consistent. Must be articulated to include all provisions outlined in Annex IIM.</p> |                                    |   |
| (b) | maintain detailed records of the daily activity of the vessel whether fishing or not;   |   |                                    |   |
| (c) | for each haul, record the gear type, mesh size, attachments, catch and effort data, coordinates, depth, time of gear on the bottom, catch composition, discards and retained undersized fish; |   |                                    |   |
|     | (d) monitor the functioning of the satellite tracking system and report on any interruptions or interference therewith;   | Consolidate (d) & (e) to outline a process or concept for immediate reporting of serious and repetitive non-serious infringements.  | Canada to prepare a draft version. | e.g. Monitor and report on any potential infringement of the CEMs to the Flag state and to the NAFO Secretariat without delay |
|     | (e) use a pre-agreed code to report to an inspection vessel within 24 hours, any infringement of the CEM;   | Consider a reporting form for infringements.  | Canada to prepare a draft version. |   |
|     | (f) perform such scientific work as the Fisheries Commission may request; and   | Maintain item but remove word scientific.   | .                                  | Perform such work as the Fisheries Commission may request; and  |

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|    | (g) as soon as possible after leaving the Regulatory Area, and at the latest at arrival of the vessel in port, submit the report, as set out in Annex II.M, in electronic format, to the flag State Contracting Party and, if an inspection in port occurs, to the local port inspection authority. The flag State Contracting Party forwards the report to the Executive Secretary within 30 days following the arrival of the vessel in port. | Amend to include replacement wording for electronic format.<br><br>ACTION: vet through JAGDM  | Canada to request confirmation of terminology from JAGDM   | as soon as possible after leaving the Regulatory Area, and at the latest at arrival of the vessel in port, submit the report, as set out in Annex II.M, in computer readable form, to the flag State Contracting Party and, if an inspection in port occurs, to the local port inspection authority. The flag State Contracting Party forwards the report to the Executive Secretary within 30 days following the arrival of the vessel in port. |
| 3. | Each vessel shall provide food and accommodation to the observer of a standard no less than that provided to the crew.  | Further reflection on this provision is required. Ideally shift to new section with Duties of the Master. Any standard should be tied to that of the vessel's officers.   | US to prepare draft, taking into consideration that accommodations at 'officer standard' not always available<br><br>Each vessel shall provide food and accommodation to the observer of a standard no less than that provided to the vessel's officers. |  |
| 4. | The master shall extend such co-operation and assistance as may be required to enable the observer to carry out the observer's duties. Such cooperation shall include providing the observer with such access as may be required to the catch retained onboard, including such catch as the vessel may intend to discard.   | Further reflection on the provision is required. Ideally shift to new section entitled Duties of the Master.<br><br>Consider development of language linking to annex with Code of Conduct for observer and Master. | EU to draft Code of Conduct  |  |

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| 5.    | <p><b>Fishing Vessel without Observer</b><br/>Where, contrary to paragraph A.1, a fishing vessel is not carrying an observer, any other Contracting Party may, with the consent of the flag State Contracting Party, deploy an observer to the vessel who may remain onboard until flag State Contracting Party deploys an observer to the vessel.</p> | <p>Concept: where a CP is required to take an observer, the vessel must have the observer onboard the vessel before engaging in the fishing activity.</p> <p>Consider penalty section for failure to carry an observer when required to do so.</p> | Canada to draft. | Where a vessel required to carry an OBSERVER is not carrying one, any other Contracting Party may, with the consent of the flag State Contracting Party, deploy an observer to the vessel. |
| 6.    | <p><i>Costs</i><br/>1. Subject to any arrangement with another Contracting Party, each Contracting Party shall bear the costs of remunerating every observer it has deployed.</p>  | Consensus that remains unchanged.  |                  |  |
| 7.    | <p><b>Duties of the Executive Secretary</b><br/>The Executive Secretary provides to any Contracting Party:</p>   | 4. For (a) & (b), develop provision for all observer reports to be posted to the inspector's website and available to NAFO and to CPs for inspection purposes, with due consideration to confidentiality requirements.                             | US to draft.     |  |
| 7.(a) | (a) with an inspection presence in the NRA, a copy of the report referred to in paragraph 2(g), including individual hauls and co-ordinates.   |  |                  |  |
| 7.(b) | 1. (b) without an inspection presence in the NRA, upon request, a copy of the report referred to in paragraph 2(g), providing daily catch totals by species and division.  |  |                  |  |

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| <b>Part B:</b>             | <b>Electronic Reporting</b>   | Consensus that many/most of the provisions in Part B can be amended or removed | Canada to review provisions in Part B to identify which can be deleted, and which should be modified for inclusion in the revised Article 30 |  |
| B 1. (a), (b), (c) and (d) | 1. (a) Only vessels of Contracting Parties with functional VMS systems that have the necessary technical facilities in place to send electronic “observer reports” and “catch reports” are allowed to apply the provisions laid down in this chapter.   | B1. a,b,c,d - redundant  |  |  |
|                            | (a) However, by way of derogation from these measures a Contracting Party may withdraw observers from vessels applying the provisions of this chapter on the condition that the technical facilities on board the vessel necessary to send electronic “observer reports” and “catch reports” have been tested with the NAFO Secretariat and Contracting Parties with an inspection presence in the Regulatory Area. |  |  |  |
|                            | (b) The testing of this exchange shall be deemed successful once data exchanges have been completed with all recipients at a 100% reliability rate.   |  |  |  |
|                            | (c) A Contracting Party with a vessel applying the provisions of this chapter shall withdraw the observer for no more than 75% of the time that the vessel spends in the Regulatory Area during the year.   |  |  |  |
| 2.                         | <b>Duties of the Flag State Contracting Party</b><br><br>1. Each Contracting Party that intends to apply paragraph B.1 shall:<br><br>(a) no later than 30 days prior to the start of its fishing season, notify the Executive Secretary of its intention and, before it authorizes a vessel to operate in   | Under new model it will become redundant.                                      |  |  |

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|    | accordance with this Article, of the name of such vessel and the period of time during which it will not carry an observer.   |   |  |  |
|    | (b) ensure that, for each fishery in which the fishing vessels entitled to fly its flag operating in accordance with this Article are engaged, there is a balance between fishing vessels carrying observers and fishing vessels not carrying observers.  | <b>Likely be redundant, assuming new model incorporates balance.</b>  |  |  |
| 2. | 3. Where an inspector issues a notice of an infringement to a fishing vessel applying this Article that is not carrying an observer at the time of the notice, the flag State Contracting Party shall deem the infringement a serious infringement for the purpose of Article 38.1 and, where it does not require the fishing vessel to proceed immediately to port in accordance with Article 38.5, it shall deploy an observer to the fishing vessel without delay.   | <b>No consensus- All CPs to reflect and provide input at later date.</b>  | <b>All CPs to provide input. Canada to roll up comments of all.</b>                              |  |
| 4. | <b>Report to STACTIC</b><br>4.0 Each Contracting Party applying Article 30.B shall submit to the Executive Secretary by 1 March each year for the previous calendar year a report containing the following information:<br>(a) compliance overall and notably comparison between vessels with and without observers;<br>(b) costs or savings for the industry and for the authorities of the Contracting Party (including those with an inspection presence);<br>(c) interaction with traditional means of control; and<br>(d) technical functioning of the Scheme and reliability. | <b>This section could be deleted; however provision for annual STACTIC review of performance of observer program must be incorporated into compliance review.</b> | <b>Canada to prepare draft language for insertion in description of annual compliance review</b> |  |
| 5. | <b>Costs:</b><br>Subject to a different arrangement with another Contracting Party, each Contracting Party shall pay its own costs of applying this Article.  | <b>No change.</b>   |  |  |

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| <p>6.<br/>(a)<br/><br/>(b)</p> | <p><b>Daily Reports by the Observer and the Master</b><br/>The observer on board a vessel applying this Article shall:<br/>in addition to the duties described in Article 30.A.2, transmit daily in accordance with Annex II.G, the OBR report to the flag State Contracting Party FMC which shall in turn, no later than 12:00 UTC of the day following its receipt, transmit it to the Executive Secretary; and<br/>where electronic data transfer is disabled, daily transmit the report by another means and maintain a written log available to inspectors of the data so transmitted.</p> | <p>Re-write both (a) and (b) to describe as currently reflected in part A.2</p>  | <p>Canada to draft.</p>                    |  |
| <p>7.<br/>(a)<br/><br/>(b)</p> | <p>The master of a vessel applying this Article shall:<br/>(a) in accordance with Annex II.F(3), transmit daily the CAT report to the flag State Contracting Party FMC and ensure that the catch so reported corresponds to the log book entries. The FMC shall in turn, no later than 12:00 UTC of the day following its receipt, transmit the report to the Executive Secretary; and<br/>(b) where electronic data transfer is disabled, daily transmit the report by another means and maintain, available to inspectors, a written log of the data so transmitted.</p>                      | <p>Provision 7 is already covered in Art. 28. 6.<br/><br/>Confirm that 7b is reflected elsewhere in the measures.</p>                      | <p>Canada to draft.</p>                    |  |
| <p>8.</p>                      | <p>The daily OBR and CAT reports shall set out by Division the amounts of catch retained on board by species, the catch discarded and the undersized catch.</p>   | <p>Consensus that this will be modified (to remove reference to CAT reports) and moved under provision Duties of the Observer.</p>         | <p>Canada to prepare draft language</p>    |  |
| <p>9.</p>                      | <p><b>Duties of the Executive Secretary</b><br/>The Executive Secretary:<br/>(a) transmits as soon as possible to all Contracting Parties the information received in accordance with subparagraph B.2(a);<br/>(b) receives OBR and CAT reports in accordance with paragraphs B.6 and 7, and where any such report has not been received for 2 consecutive days, notifies the flag State Contracting Party and any Contracting Party</p>  | <p>To be deleted under revised articles.<br/><br/>Consensus is this will be modified and moved under provision Duties of the Observer.</p> | <p>No action to be taken at this time.</p> |  |

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|  | <p>with an inspection presence in the Regulatory Area;</p> <p>(c) compiles the data received in accordance with paragraph B.1 in the format set out in Annex II.H, treats it in accordance with Annex II.B and transmits it weekly to each Contracting Party with an inspection presence in the Regulatory Area; and</p> <p>(d) provides to STACTIC an assessment of issues relevant to the exchange of data in accordance with this Article, including compatibility, collection, compilation, transmission, and incremental cost to the operation of the Secretariat.</p> | <p><b>Lack of consensus on what to do on this sub-article. Canada sees merit in weekly reporting by OBSERVER.</b></p> <p><b>Consensus is this will be modified and moved under provision Duties of the Observer.</b></p> |  |  |
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**Training, Designation and Equipment**

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| <p><b><u>EQUIPMENT</u></b></p> <p>Discussion on resources available to build standardized equipment supplies / required.</p> <p>Consensus that each party supplies their respective equipment list supplied as part of the duty list or responsibilities.</p> <p>Iceland gave overview of equipment list:</p> <ul style="list-style-type: none"> <li>• Measuring board, guage (spring loaded),</li> <li>• Flootation equipment</li> <li>• Tapes, camera, sampling kits,</li> <li>• Voice recording device (measurements) etc</li> </ul> <p>Procedures: Conversion Factors management.</p> <p>Faroe Is: have same equipment list for own OBSERVERS.</p> <p>Canada confirmed that domestic OBSERVERS have similar equipment list.</p> | <p>Each party to provide their equipment list for observers.</p> <p>Consensus on the need for an independent and reliable means of communications for OBSERVER.</p>              | <p>Canada to roll-up.</p>   |  |
| <p><b><u>TRAINING</u></b></p> <p>Iceland explained current training processes within OBSERVER Program (Inspector). It includes:</p> <ul style="list-style-type: none"> <li>• Initial training</li> <li>• Ongoing annual refresher training</li> </ul> <p>Iceland suggested that requirement to have captains</p> <p>EU (JL) suggested that a mandatory requirement on the part of the master to complete safety/ emergency orientation.</p>   | <p>All parties supply training and certification requirements for each CP's respective observer programs.</p> <p>Obtain training standards from other organizations or RFMO.</p> | <p>EU to roll-up and consider in drafting of qualifications standard.</p> |  |

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|  | <p>Faroe: advised that medical fitness is a criterion for their program.</p> <p>Discussion held about fitness for work, aspects such as medical or psychological fitness. Is this possible</p> <p>US asked if we intend to have all NAFO OBSERVERs training under a standard.</p> <p>Canada submitted that it sees the program as having a consistently trained group of OBSERVERs.</p> <p>Canada suggested that all parties supply certification requirements for respective OBSERVERs.</p>  |  |   |  |
|  | <p><b><u>QUALIFICATIONS</u></b></p> <p>US look for College Degree with emphasis on Biology. Have a sea trial process.</p> <p>Iceland / Greenland have versions of a mentoring Program:</p> <ol style="list-style-type: none"> <li>a. Iceland: have trips to ensure orientation</li> <li>b. Greenland have senior observer act as mentor for ½ year in case of newly hired OBSERVER.</li> </ol> <p>Faroe Is:</p> <ol style="list-style-type: none"> <li>a. Targeted hiring – retired captains and fishers.</li> </ol> <p>Canada suggested that given the environment and importance to the safety and security of OBSERVER that at the minimum a fitness for work should be made a requirement within the measures.</p> <p>Consideration should be given to the International Observer Bill or Rights.</p> | <p><b>Development draft guidelines for minimum observer qualifications</b></p> | <p><b>EU to draft copy of observer qualification and training requirements.</b></p> |  |

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|  | <p><b><u>OBSERVER ENGAGEMENT</u></b></p> <p>Canada suggested that there should be renewed procedures around the dialogue between the inspector and observer.</p> <p>All parties in agreement with this approach.</p> <p>EU recommended that the new language should be contained within the Joint Inspection and Surveillance Scheme (Art. 31).</p> <p>Resulting discussion determined that it is more ideal to have new language under Art. 30 which would obligate the observer to make him/herself available to the inspector.</p> <ul style="list-style-type: none"> <li>• Inspector requirement will include discussion with observer</li> <li>• Verification of certification</li> <li>• Discussion about potential infringements</li> </ul> | <p><b>Develop language for inclusion under duties of the observer, relating to making themselves available for discussion or interaction with inspectors.</b></p>   | <p><b>Canada to develop language for inclusion in an annex or in measures relating to inspector engagement of the observer.</b></p>                               |  |
|  | <p><b><u>DEPLOYMENTS</u></b></p> <p>Suggested that FMC could log onto MCS page of NAFO to update a list of deployment, along with the name or ID verification.</p> <p>Emergency action plan requirement guided by WWF discussion paper, (who must report &amp; what is the process)</p> <p>Canada asked if the CPs observer Programs have a pre-departure safety checklist. Canada outlined a process that is employed in NL which included checks.</p> <p>No standard process identified by CPS. Iceland has a CCG version.</p>   | <p><b>Reference required for CP to ensure it is undertaken.</b></p> <p><b>Also, develop language for inclusion under an annex or in measures relating to inspector engagement of the observer, pertaining to briefing and debriefing.</b></p> | <p><b>EU to develop language for inclusion under duties of the observer, relating to making themselves available for purposes of briefing and debriefing.</b></p> |  |



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|  | <b><u>TREATMENT OF OBSERVERS</u></b>                        | Consideration to be given to provision requiring CPs to ensure their masters respect the Code of Conduct in relation to their interactions with observer.  | EU to develop Code of Conduct for observer / Master, including provision to provide observer the ability to report harassment. |  |
|  | <b><u>CRITERIA FOR ESTABLISHMENT OF COVERAGE LEVELS</u></b> | All CPs with existing risk-based model for observer coverage or inspection protocols should provide them for consideration in development of new NAFO deployment scheme. <ul style="list-style-type: none"> <li>• Science requirement</li> <li>• Compliance requirement</li> </ul> | Canada to redraft 2004 proposal for a risk-based model for establishing coverage levels.                                       |  |